

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0163CP

IN THE MATTER OF THE APPLICATION OF ADVENTURE MARA INK LLC FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
CONOR F. FARLEY
ADDRESSING REPRESENTATION, SCHEDULING
HEARING, AND SETTING PROCEDURAL SCHEDULE**

Mailed Date: June 16, 2020

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I. STATEMENT

A. Background

1. On April 13, 2020, Mara Ink LLC (Mara Ink) filed the application described in the caption above (Application).

2. On April 20, 2020, the Commission issued a notice of the Application.

3. On April 27, 2020, Ramblin' Express, Inc. (Ramblin') filed an Entry of Appearance and Intervention in this proceeding.

4. On May 20, 2020, the following entities filed interventions in this proceeding: (a) CKIMY, LLC, doing business as iLIMO (iLIMO); (b) Aspire Tours LLC (Aspire); and (c) Ullr Tours, LLC, doing business as The Colorado Sightseer (Colorado Sightseer). Ramblin', iLIMO, Aspire, and Colorado Sightseer shall be collectively referred to as Intervenors.

5. On May 27, 2020, the Commission deemed the Application complete and referred it to an Administrative Law Judge (ALJ) for disposition. The proceeding was subsequently assigned to the undersigned ALJ.

B. Representation

1. Mara Ink and iLIMO

6. Avelino Diaz Barriga, who is not an attorney, signed the Application on behalf of Mara Ink and stated in the Application that he will represent Mara Ink in this proceeding. Similarly, non-attorney Yassine Chanane signed the intervention of iLIMO and stated in a separately-filed document entitled Representation for iLIMO that he will represent iLIMO in this proceeding. In the Application and iLIMO's Representation for iLIMO, Mara Ink and iLIMO state that: (a) they do not believe the amount in controversy in this proceeding exceeds \$15,000;

(b) Mara Ink and iLIMO do not have more than three owners; and (c) Avelino Diaz Barriga and Yassine Chanane are the managers of Mara Ink and iLIMO, respectively.

7. Based on the foregoing, the undersigned ALJ finds and concludes that, under Rule 1201(a) of the Commission's Rules of Practice and Procedure¹ and § 13-1-127, C.R.S., Mara Ink has established that Avelino Diaz Barriga is permitted to represent Mara Ink and iLIMO has established that Yassine Chanane is permitted to represent iLIMO. Mara Ink, iLIMO, Avelino Diaz Barriga, and Yassine Chanane are on notice that they will be bound by, and held to, the same procedural and evidentiary rules that attorneys must follow. Mara Ink and iLIMO will not be held to a lesser standard because they have chosen not to have an attorney represent them in this proceeding.

2. Colorado Sightseer

8. Colorado Sightseer is a party to this adjudicatory proceeding. Rich Grover signed Colorado Sightseer's Intervention. Colorado Sightseer's intervention does not state, however, that Mr. Grover is an attorney currently in good standing before the Supreme Court of the State of Colorado.

9. Commission Rule 1201(a) requires a party in a proceeding before the Commission to be represented by an attorney authorized to practice law in the State of Colorado.² An exception to this rule allows a non-attorney "officer" to represent the interests of a closely-held entity in a proceeding in which no more than \$15,000 is in controversy.³ A

¹ 4 *Code of Colorado Regulations* (CCR) 723-1.

² 4 CCR 723-1.

³ § 13-1-127, C.R.S.

closely-held entity has no more than three owners.⁴ Evidence must be provided that the officer has the authority to represent the interests of the closely held entity.⁵

10. Colorado Sightseer must either obtain counsel or show cause why Rule 1201, 4 CCR 723-1, does not require it to be represented in this proceeding by an attorney currently in good standing before the Supreme Court of the State of Colorado. The deadline for counsel for Colorado Sightseer to enter an appearance in this matter or to show cause why Rule 1201, 4 CCR 723-1, does not require it to be represented by legal counsel is **July 10, 2020**. Colorado Sightseer is advised that failure either to show cause or to have legal counsel file an entry of appearance on its behalf on or before **July 10, 2020** may result in dismissal of its intervention.

C. Hearing

11. The hearing in this matter shall be scheduled for **August 21, 2020**. Due to the COVID-19 pandemic, the hearing shall be a remote hearing at which the participants will appear from remote locations, as provided in Attachment A. The ALJ finds that holding a remote hearing is consistent with current public health advisories to prevent the spread of COVID-19. The ALJ concludes that it is in the parties' and the public interest to hold the hearing in this proceeding as a remote hearing. The parties, witnesses, attorneys, and members of the public must not appear in-person for the hearing.

12. The ALJ will send an email to the parties and/or their counsel containing the URL necessary to participate in the remote hearing by computer. Any party, counsel, or witnesses who

⁴ See Rule 1201(b)(II), 4 CCR 723-1. See also § 13-1-127(2.3(a)), C.R.S. (stating that “[a] person in whom management of a limited liability company is vested or reserved” “shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person’s holding the specified office or status[.]”).

wish to participate in the remote hearing must use a computer that is connected to the internet and has a microphone and a speaker. Attachment A provides more extensive instructions for participating in the remote hearing.

13. If any party cannot attend the remote hearing on this date, the party with the scheduling conflict must file a motion to reschedule the remote hearing by **June 26, 2020**. Before filing the motion to reschedule, the filing party must confer with the other parties about whether any other party opposes the motion and the dates that all of the parties are available between August 24, 2020 and September 10, 2020. The motion to reschedule must then: (a) state whether it is opposed or unopposed; (b) identify the dates that all of the parties are available for a remote hearing between August 24, 2020 and September 10, 2020; and (c) identify the number of days that the parties anticipate the remote hearing will take.

D. Procedural Schedule

14. To facilitate the orderly and efficient litigation of this proceeding, the ALJ finds and concludes that a procedural schedule should be adopted, so that each party will have an opportunity prior to the hearing to review a summary of the anticipated testimony of each witness the other party intends to call at the hearing, and to review copies of the exhibits the other party will present at the hearing. Therefore, this Decision will order the parties to file, and to serve on each other, a list of witnesses, a summary of the testimony of each witness, and copies of the exhibits the filing party intends to present at the hearing.

15. On or before **July 10, 2020**, Mara Ink will be ordered to file and serve on the Intervenor: (a) a list that identifies the witnesses Mara Ink intends to call at the hearing, the last

⁵ Section 13-1-127(1)(i), C.R.S., defines “officer” as “a person generally or specifically authorized by an entity to take any action contemplated by” § 13-1-127, C.R.S.

known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Mara Ink will present at the hearing.

16. On or before **July 31, 2020**, each of the Intervenors will be ordered to file and serve on Mara Ink and the other Intervenors: (a) a list that identifies the witnesses each Intervenor intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits each Intervenor will present at the hearing.

17. As referenced in this Decision, serving a party with any document (*e.g.*, witness and exhibit lists and exhibits) means that the party is required to give the document to the other party or parties to the proceeding. Service must be accomplished pursuant to Rule 1205 of the Commission's Rules of Practice and Procedure.⁶ The Commission's Rules (including Rule 1205) are available on the Commission's website and in hard copy from the Commission.

18. All parties must establish through a certificate of service that they have served a filed document on all other parties in the proceeding. A certificate of service is a statement indicating how and when a document was served on the other party (*e.g.*, the filing was served by placing the document in the United States mail, first class postage-prepaid to an identified address on an identified date).⁷

19. All exhibits shall be identified by sequential numbers (*e.g.*, Exhibit 1, Exhibit 2, and Exhibit 3). Each exhibit shall include the following information: exhibit number, proceeding number, name of the witness who will testify to the exhibit's foundation, and the date

⁶ 4 CCR 723-1.

⁷ See Rule 1205(e), 4 CCR 723-1.

of the hearing. The parties shall work together to ensure that there are no overlaps in the numbering of the exhibits.

20. The filing of an exhibit with the Commission does not, by itself, admit an exhibit into the evidentiary record of the hearing.

21. If any exhibit is longer than two pages, the party offering the exhibit shall sequentially number each page of the exhibit.

22. The parties are on notice that: (a) any witness may be prohibited from testifying, except in rebuttal, unless that witness is identified on the list of witnesses filed and served as required herein; (b) failure to provide an accurate description of the anticipated testimony of a witness may also result in an order prohibiting such witness from testifying; and (c) any exhibit may not be received in evidence, except in rebuttal, unless filed and served as required herein.

E. Additional Advisements

23. The parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<http://www.dora.colorado.gov/puc>) and in hard copy from the Commission.

II. ORDER

A. It Is Ordered That:

1. Mara Ink LLC (Mara Ink), Ramblin' Express, Inc. (Ramblin'), CKIMY, LLC, doing business as iLIMO (iLIMO), Aspire Tours LLC (Aspire), and Ullr Tours, LLC, doing business as The Colorado Sightseer (Colorado Sightseer) are parties in this proceeding (Ramblin', iLIMO, Aspire, and Colorado Sightseer are collectively referred to as Intervenors).

2. On or before **July 10, 2020**, Colorado Sightseer must either obtain counsel or show cause why Rule 1201 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, does not require it to be represented in this proceeding by an attorney currently in good standing before the Supreme Court of the State of Colorado.

3. A remote evidentiary hearing in this docket is scheduled as follows:

DATE: August 21, 2020

TIME: 9:00 a.m.

FOR WEBCASTS: Hearing Room B

METHOD: Join by video conference at the link to be provided by the email from the Administrative Law Judge

4. The parties, witnesses, attorneys, and members of the public must not appear in-person for the hearing.

5. On or before **June 26, 2020**, any party that cannot attend the hearing on August 21, 2020 must file a motion to reschedule the hearing, as described above.

6. On or before **July 10, 2020**, Mara Ink shall file and serve on the Intervenors: (a) a list that identifies the witnesses Mara Ink intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits Mara Ink will present at the hearing.

7. On or before **July 31, 2020**, each of the Intervenors shall file and serve on Mara Ink and the other Intervenors: (a) a list that identifies the witnesses each Intervenor intends to call at the hearing, the last known address and telephone number of each witness, and a summary of the anticipated testimony of each witness; and (b) copies of the exhibits each Intervenor will present at the hearing.

8. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CONOR F. FARLEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director